

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Butte)

THE PEOPLE,

Plaintiff and Respondent,

v.

TYLER CHARLES PASCONE,

Defendant and Appellant.

C080437

(Super. Ct. No. CM043007)

In the early morning hours of May 8, 2015, Marie T. was awoken by an intruder opening dresser drawers in her bedroom. She alerted her husband, who chased the intruder out of the residence. After officer's recovered a backpack from the neighbor's driveway containing identifying items belonging to defendant, Marie T. identified defendant as the intruder. Defendant's shoe print also matched the shoe print found outside Marie T.'s residence. There was 0.18 grams of cocaine on defendant's person at the time he was arrested.

Defendant pled no contest to first degree residential burglary. The violent felony allegation of there being a person present during the burglary, and an additional count for possession of a controlled substance, were dismissed with a *Harvey*¹ waiver. Defendant also entered into a *Johnson*² waiver, waiving custody credits up to the day of his change of plea.

Sentencing took place on September 24, 2015. The trial court sentenced defendant to the upper term of six years, imposed various fines and fees, and credited defendant with 56 days of presentence custody credit.

Defendant appeals. He did not obtain a certificate of probable cause. (Pen. Code, § 1237.5.)

Appointed counsel for defendant Tyler Charles Pascone filed an opening brief that sets forth the facts of the case and asks this court to review the record and determine whether there are any arguable issues on appeal.³ (*People v. Wende* (1979) 25 Cal.3d 436.) Finding no arguable error that would result in a disposition more favorable to defendant, we affirm the judgment.

¹ *People v. Harvey* (1979) 25 Cal.3d 754.

² *People v. Johnson* (1978) 82 Cal.App.3d 183.

³ Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

DISPOSITION

The judgment is affirmed.

/s/
Robie, J.

We concur:

/s/
Hull, Acting P. J.

/s/
Murray, J.